S.B.CIVIL TRANSFER PETITION NO.30/2006

Rekha

vs.

Ramawatar.

DATE OF ORDER ::: 22.11.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. U Ghani, for the petitioner.

Mr. A Purohit, for the respondent.

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Heard learned counsel for the parties.

The petitioner, wife of the respondent, has moved this petition for transfer of the Divorce Petition filed by the respondent being Case No.245/2004 (Ramawatar vs. Rekha) and which is pending in the Family Court, Ajmer to Court of District Judge, Bhilwara.

It appears from the facts mentioned in the transfer petition itself that the divorce petition was filed in 2004. The petitioner lady appeared at Family Court, Ajmer. She submitted application for grant of interim maintenance under Section 24 of the Hindu Marriage Act. She was also getting maintenance under Section 125 Cr.P.C., which according to learned counsel for the petitioner was Rs.750/- per month. That maintenance was enhanced in the

proceedings under Section 24 of the Hindu Marriage Act in the present divorce petition to Rs.1,000/- per month. Learned counsel for the respondent submitted that under Section 125 Cr.P.C., the maintenance amount has been increased to Rs.1,500/- per month and now she is getting Rs.1,500/- per month as the revision against the order of maintenance passed under Section 125 Cr.P.C. has been dismissed.

Learned counsel for the respondent submits that the respondent is also paying the actual expenses for travelling of the petitioner and her father regularly.

According to learned counsel for the petitioner, the petitioner first wrote a letter to Hon'ble the Chief Justice on 25.8.2005 for transfer of divorce petition from Ajmer to Bhilwara and when the divorce petition was not transferred, she has submitted this transfer petition on 3.8.2006.

The above facts clearly reveal that the petitioner obtained favourable order of enhancement of maintenance from the court below on 15.4.2005 and is getting maintenance amount as well as travelling expenses for more than one year and only after getting maintenance order on 15.4.2005, she has moved application for transfer on 3.8.2006. It appears that the petitioner voluntarily took part in the proceedings before the court below for enhancement of maintenance amount and thereafter, when the issues were framed and the case is fixed for evidence and

when main petition itself can be decided within a period of one year (provided the petitioner cooperates), there is no reason for transferring the case at the behest of the petitioner at this stage and particularly, when she had no grievance till she got the maintenance order from the court below and till the stage of evidence reached.

In view of the aforesaid facts and in view of the judgment delivered by the Hon'ble Supreme Court in the case of Anindita Das vs. Srijit Das (Transfer Petition [Civil] No.191/2005 decided on 29.8.2005, I do not find any reason to transfer the divorce petition.

In view of the above, this transfer petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya